

**REMARKS**

This preliminary amendment is submitted with a request for continued examination. Claims 1-2 and 5-12 are pending. In the Office Action, the Examiner rejects Claims 1-2 under 35 U.S.C. § 103(a) as being unpatentable over W.O. Pat. Pub. App. No. 97/45814 to Vazvan ("Vazvan") in view of U.S. Pat. Pub. App. No. 2001/0054087 to Flom et al. ("Flom") and further in view of U.S. Pat. No. 7,240,036 to Mamdani. Claims 5-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vazvan in view of U.S. Pat. No. 5,933,812 to Meyer et al. ("Meyer") and further in view of Mamdani.

Applicants have amended independent Claims 1, 5, and 12 to further patentably distinguish the cited references. New Claims 13-16 have been added. In light of the amendments and subsequent remarks, Applicants respectfully submit that the claims are in condition for allowance.

The Rejection of Claims 5 and 12 under § 103 is Overcome

Independent Claim 5 is generally directed to a method for facilitating the payment of products. The method includes using a mobile device enabled for short range proximity signaling and two way messaging to provide a short range proximity signal to a proximity reader. The method further includes presenting the mobile device to the proximity reader. The method also includes providing identification information to a payment system. The method additionally includes receiving verification of identity information from the payment system at the mobile device. The verification of identity information includes indicia of a unique transaction confirmation code generated by the payment system. The method further includes ordering a plurality of products and accumulating charges. The method also includes receiving on a display of the mobile device the electronic bill for a total charge.

Independent Claim 12 is directed to an apparatus including a processor configured to provide a short range proximity signal to a proximity reader. The processor is further configured to provide identification information to a payment system. The processor is

additionally configured to receive verification of identity information from the payment system. The verification of identity information includes indicia of a unique transaction confirmation code generated by the payment system. The processor is also configured to submit an order for a plurality of products to the payment system. The processor is further configured to receive the electronic bill for a total charge.

The Office Action relies on the combination of Vazvan, Meyer, and Mamdani as disclosing Claims 5 and 12. With respect to the recitation that the verification of identity information includes indicia of a unique transaction confirmation code generated by the payment system, the Office Action admits that "Vazvan and Meyer do not explicitly disclose" the recitation. *See*, Pages 5 and 8 of the Office Action. The Office Action instead relies on Fig. 2, item 104b and Co. 3, lines 55-67 to Co. 4, line 25 of Mamdani. Mamdani teaches that first and second transaction barcodes are sent to the mobile device. The Examiner seems to regard these as a unique transaction confirmation code.

In order to further patentably distinguish the cited references, Applicants have amended Claims 5 and 12 to recite that the unique transaction confirmation code links an electronic bill of a user to a payment account for the user. Support for this amendment may be found at least at paragraphs 152-153 of the present application. In contrast, Mamdani does not teach or suggest that either the first or second transaction barcode links an electronic bill of a user to a payment account for the user. As admitted by the Office Action, the other cited references do not even suggest a unique transaction confirmation code. Accordingly, none of the other cited references, taken alone or in combination with Mamdani, teaches or remotely suggests a unique transaction confirmation code that links an electronic bill of a user to a payment account for the user as recited by Claims 5 and 12. Applicants therefore respectfully submit that the rejection of Claims 5 and 12 is overcome and Claims 5 and 12 are in condition for allowance.

#### The Rejection of Claim 1 under § 103 is Overcome

Independent Claim 1 is generally directed to a system for facilitating electronic payments using a mobile device enabled for short range proximity signaling and two way

messaging. The system comprises a proximity reader for interacting with a mobile device presented to the proximity reader and for triggering initiation of a mobile payment session, such as when the mobile device is within range of a proximity communications means used by the proximity reader. The system further comprises a plurality of servers for providing authentication of a user and processing payments. The system additionally comprises a plurality of point of sale terminals to provide access to transaction information. The system also comprises a messaging system for providing mobile commerce messaging with the user.

In order to further distinguish over the cited references, independent Claim 1 has been amended to include the recitation that the plurality of servers are configured to initiate a voice call to the mobile device, request an authentication code from a user of the mobile device, and receive an authentication code entered into the mobile device by the user. In this regard, the plurality of servers may utilize an Integrated Voice Response (IVR) system or voice over internet protocol (VoIP) authentication to call a customer's mobile number and request an authentication code, such as a PIN, from the user. The plurality of servers may then receive an authentication code entered into the mobile device by the user. *See, e.g.* Paragraph 148 of the present application.

Claim 1 formerly recited that the plurality of servers communicate with the user for purposes of authentication via voice, which the Office Action posited was taught by Mamdani. Mamdani teaches comparing a user spoken transaction requestor authentication code with an authentic voice print of an authorized user of the communication device. *See, e.g.*, Fig. 2 (104b) and Col. 3, line 65 – Col. 4, line 20 of Mamdani. In contrast, amended independent Claim 1 recites initiating a voice call, requesting an authentication code from a user of the mobile device, and receiving an authentication code entered into the mobile device by the user, such as described above. Accordingly, Mamdani does not teach or suggest receiving an authentication code entered into the mobile device by the user as Mamdani instead teaches receiving a spoken transaction requestor authentication code. Further, none of the other cited references cure the defect of Mamdani. Applicants, therefore, respectfully submit that none of the cited references, taken alone or in combination, teaches or suggests independent Claim 1 and

the rejection is overcome. Applicants further submit that Claim 1 is in condition for allowance.

The Rejection of the Dependent Claims is Overcome

The dependent claims include all of the recitations of a respective independent base claim and as such Applicants further submit that the dependent claims are patentably distinct from the cited references taken alone or in combination for at least the reasons argued above. Therefore, Applicants respectfully submit that the rejections of the dependent claims are overcome and the dependent claims are in condition for allowance.

In addition, with respect to Claim 6, Applicants previously traversed the rejection of dependent Claim 6. However, the Office Action fails to address Applicants' arguments with respect to Claim 6 and includes the same rejection language as was included in the previous Office Action. Accordingly, Applicants continue to respectfully traverse the position of the Office Action that Vazvan discloses receiving a plurality of messages offering additional items to purchase on a display of the mobile device, adding a plurality of additional charges to the electronic bill, and approving of the total charge plus the plurality of additional charges as recited by Claim 6. Claim 6 is thus directed to a method wherein a user of a mobile device is presented with items for purchase in addition to items which the user has already selected to purchase and additional presented items which the user elects to purchase result in adding additional charges to an accumulated total electronic bill. In contrast, Vazvan merely discloses the presentation and payment of a bill for a purchase that a user has already elected to make. As such, Applicants respectfully submit that Vazvan neither teaches nor suggests the presentation to a user of messages offering additional items to purchase and then adding additional charges to the electronic bill as recited by Claim 6.

New Claims 13 and 15 are in Condition for Allowance

New dependent Claims 13 and 15 depend from Claim 5 and Claim 12, respectively, and recite that providing identification information to a payment system comprises providing a PIN code and one or more of a table number or seat number to the

payment system. Support for Claims 13 and 15 may be found at least at paragraph 149 of the present application. Applicants submit that none of the cited references, taken alone or in combination, teach or suggest Claims 13 and 15 and the claims are in condition for allowance.

New Claims 14 and 16 are in Condition for Allowance

New dependent Claims 14 and 16 depend from Claim 5 and Claim 12, respectively, and recite receiving email confirmation of transaction completion, the email including tagged data allowing the data to be used in other programs. Support for Claims 14 and 16 may be found at least at paragraphs 156-157 of the present application. Applicants submit that none of the cited references, taken alone or in combination, teach or suggest Claims 14 and 16 and the claims are in condition for allowance.

### CONCLUSION

In view of the amended claims and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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